

CITY OF PORT LAVACA
PART II – CODE OF ORDINANCES

EXHIBIT A

Chapter 12 – BUILDINGS AND BUILDING REGULATIONS

**ARTICLE VI. - REQUIREMENTS FOR OWNERS OF RESIDENTIAL PROPERTIES
USED AS SHORT-TERM RENTALS**

Sec. 12-350. - Purpose

This Article is adopted to promote the public health, safety, and general welfare within the City by providing neighborhood sustainability and preserving property values. Having current and reliable information about the owners of Short-Term Rentals will allow the City to provide those owners with timely information on the condition of their properties and emergency contact information, to ensure collection of hotel occupancy taxes, to protect the health and safety of guests of Short-Term Rentals and to aid in enforcement of applicable ordinances and laws. By requiring the registration of Short- Term Rental properties, the City Council seeks to protect property values and to prevent property damage within the City limits.

Sec. 12-351.- Definitions.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City. The City of Port Lavaca, Texas.

Director or Designee. The department(s) or division(s) of the City designated by the City Manager to administer and/or enforce the provisions of this Ordinance and any person or persons designated by such a department or division to represent the department or division for said purpose.

Guest. A person contracting with a Short-Term Rental for use of a residential dwelling or premises as a Short-Term Rental and the person's invitees at the Short-Term Rental.

Hotel Occupancy Tax. Hotel occupancy tax as provided for in Chapter 44, Article III of the City Code of Ordinances and Chapter 351 of the Texas Tax Code, as they exist or may be amended and any successor ordinances or laws.

Local Contact Person. The Owner, Operator, or person designated by the Owner or the Operator, who shall be available for the purpose of responding to concerns or requests for assistance related to the Owner's Short-Term Rental.

Occupant(s) shall mean the person or persons who have rented the short-term rental for a specified period and the overnight occupants.

Operator. The Owner or the Owner's authorized representative who is responsible for compliance with this Article while advertising and/or operating a Short-Term Rental.

Owner. The person or entity that holds legal or equitable title to the Short-Term Rental property.

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Short-Term Rental (STR). A privately owned dwelling, including but not limited to, a single-family dwelling, condominium, duplex, townhouse, mobile home, recreational vehicle (RV), or any portion of such dwellings, rented by the public for consideration, and used for dwelling, lodging or sleeping purposes for any period less than thirty (30) consecutive days. The term applies regardless of whether the dwelling was originally constructed or zoned as a residential dwelling. The term *Short-Term Rental* does not include:

- (1) Multi-family dwelling(s), apartment complex, hotel, motel, dormitory, public or private club, recreational vehicle park, hospital and medical clinic, nursing home or convalescent home, foster home, transitional housing facility, any housing operated or used exclusively for religious, charitable or educational purposes, and any housing owned by a governmental agency and used to house its employees or for governmental purposes.
- (2) Rental of a property pending closing of a real estate purchase contract.

Short-Term Rental Permit. A permit issued by the City authorizing the use of a privately owned dwelling as a Short-Term Rental.

Short-Term Rental Listing Service. A person that participates in the Short-Term Rental business by facilitating booking services through which an owner may offer Short-Term Rentals to potential guests. Short-Term Rental Listing Services usually, though not necessarily, provide booking services through an online platform that allows an owner to advertise the premises through a website provided by the Short-Term Rental Listing Service and the Short-Term Rental Listing Service conducts a transaction by which potential guests arrange their use and their payment, whether the potential guest pays rent directly to the owner or to the Short-Term Rental Listing Service

Short-Term Rental Unit. One or more habitable rooms forming a single habitable division within a Short-Term Rental, or an entire undivided Short-Term Rental, which is advertised to be occupied, is occupied or is intended to be occupied by a single party of Guests under a single reservation and/or single rental payment.

Sec. 12-352. – Applicability

- (a) The property owner shall designate themselves or an agent to comply with the requirements of this Article on behalf of the owner. The owner or designated agent is sometimes referred to as "operator" herein.
- (b) The owner shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of the residential dwelling unit as a short-term rental unit, regardless of whether such noncompliance was committed by the owner, operator, authorized agent or representative or the occupants or guests of the occupants.
- (c) This article is not intended to provide any owner/operator of residential property with the right or privilege to violate any city ordinance, private conditions, covenants or restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short term rental purposes as defined in this section or to repeal, arrogate, or impair any existing easements, covenants, or deed restrictions.

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- (1) Exception: Existing Short-Term Rentals that have been in operation for at least one (1) year at the time of adoption of this ordinance, but have had no complaints filed against the property in relation to the Short-Term Rental and have filed / paid their Hotel Occupancy Tax (HOT) in a timely manner and can show proof of such, will be considered legal non-conforming and is subject to the regulations set forth in this chapter. Change in ownership will negate the legal non-conforming status.
- (d) Abrogation and greater restrictions. Where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (e) An advertisement promoting the availability of Short-Term Rental property in violation of any provision of this ordinance is prima facie evidence of a violation.
- (f) The provisions of this article pertaining to Short-Term Rentals shall be reviewed by the city council within one year of the adoption. Those provisions are subject to amendment or repeal upon such review or at any other time. The adoption of the Short-Term Rental provisions of this article shall not be construed to create any enforceable right to the continuation of short-term rentals or any right to compensation for loss, damages, costs, or expenses alleged to have been incurred in reliance upon its adoption or suffered as a result of its repeal.

Sec. 12-353.- Registration and Permit

- (a) Registration Required: Prior to using a dwelling unit as a Short-Term Rental or advertising in any manner the availability of the dwelling unit for Short-Term Rental use, the operator must submit the following information on a form and in the manner prescribed by the Director:
 - (1) The name, address, email and telephone number of the Owner and Operator of the subject short-term rental unit;
 - (2) The name, address, email and telephone number of a designated Local Contact Person;
 - (3) The Local Contact Person is the Operator or person designated by the Operator who shall be available for the purpose of:
 - i. Responding to complaints presented by the Port Lavaca Police Department regarding the condition, operation, or conduct of occupants of the short-term rental unit; and
 - ii. Responding in person or by phone within twenty-four (24) hours to all other complaints; and
 - iii. Taking remedial action to resolve any such complaints;
 - (4) The name, mailing, and physical address of the proposed Short-Term Rental unit;
 - (5) The number of sleeping rooms and applicable occupancy limit of the proposed Short Term Rental unit. For purposes of this section, a sleeping room is a room designated and used primarily for sleeping and resting on a bed, air mattress, cot, or couch. This shall not be interpreted to include living rooms, family rooms and other similar rooms in which furniture such as fold- down beds or convertible couches are provided on a permanent basis for regular accommodation of residents, temporary or otherwise;
 - i. Maximum occupancy is three (3) times the number of sleeping rooms per dwelling unit as per Texas State Property Code, Title 8, Sec 92.010. Children shall not be counted in the occupancy calculation. For purposes of this section an adult is an individual eighteen (18) years of age or older at time of rental.

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- ii. The maximum occupancy of a Short-Term Rental shall be determined at the time a Short-Term Rental permit is issued or renewed. That capacity shall not be increased by subsequent construction of any addition to the structure covered by the permit or by construction of any other structure located on the property without an inspection and approval by the Building Official and submission of an amended registration form;
- (6) If the applicant does not own the property where the rental unit is located, the applicant must provide written documentation, signed by the property owner before a notary public, authorizing the registrant to operate a short-term rental on the premises;
- (7) A diagram showing the proposed layout of the property use and any on-site parking available for the Short-Term Rental;
- (8) Payment of all fees, established by this article or the City Council and, for registration renewals, proof of collection and payment of Hotel Occupancy Tax due during the preceding registration periods; and
- (9) Incomplete applications will not be processed and, as a result, any premises associated with an incomplete application will not be registered in compliance with or as required by this division; and any additional information the Director determines necessary for the administration of this section.
- (b) Prior to issuance of a Short-Term Rental permit, the Operator shall allow an on-site inspection of the Short-Term Rental unit by the Building Official or his/her designee to ensure compliance with the following:
 - (1) The requirements set forth in Section 12-354(a)(1) through (9) of this Article; and
 - (2) The requirements set forth in Sections 12-354(b)(1) through (8) of this Article; and
 - (3) A live inspection must occur every 2 years.
- (c) Any existing Short- Term Rental shall have ninety (90) days from adoption of the ordinance to obtain a permit.
- (d) Transferability. A Short-Term Rental permit is not transferable to a new property owner. A new owner must apply for a Short-Term Rental permit within sixty (60) days from the closing date of the purchase or any other conveyance of ownership. Failure of a new property owner to apply for permit within sixty (60) days from the closing date may result in the revocation or non- renewal of an existing Short Term Rental permit or the denial of a new Short Term Rental registration.
- (e) Any property owner delinquent and/or owing city fees to include but not limited to property taxes, sanitation, or utility service fees. and property maintenance fees will be prohibited from registering a Short-Term Rental until such time as payment or acceptable resolution is approved by the City Manager or his/her designee.
- (f) Registration fee; renewal fee.
 - (1) The Short-Term Rental registration form shall be accompanied by an initial non-refundable per unit registration fee of \$150.00.
 - (2) The initial registration of the Short-Term Rental is valid for twelve (12) months from the date the completed registration is filed with the city and payment of the registration fee has been made unless ownership of the Short-Term Rental changes at which time a new registration will be required and new permit issued. Subsequent renewal of a Short-Term Rental accompanied by an initial non-refundable per unit registration renewal fee of \$100.00 will be on an annual calendar year basis beginning January first of each year.

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- (g) Each Short-Term Rental, once properly registered, shall be issued a permit with a unique registration number. The registration number must be included in any and all advertisement for the Short-Term Rental, including internet booking sites.

Sec.12-354. - Short Term Rental operational requirements.

- (a) The Operator shall post the following information in a prominent location within the Short- Term Rental Unit, using a form promulgated by the City:
- (1) The unique Short Term Rental Permit number assigned to the Short-Term Rental Unit;
 - (2) Operator name and number;
 - (3) Local Contact Person name and number;
 - (4) The location of any on-site and off-site parking spaces available for Guests;
 - (5) The occupancy limit;
 - (6) Instructions to Guests concerning disposal of garbage and handling of garbage containers;
 - (7) Depiction of floor plan identifying evacuation routes, including the dwelling's exits, primary evacuation routes and secondary evacuation routes near the front door of the dwelling if applicable;
 - (8) Information to assist guests in the case of emergencies posing threats to personal safety or damage to property, including emergency and non- emergency telephone numbers for police, fire and emergency medical services providers and instructions for obtaining severe weather, natural or manmade disaster alerts and updates;
 - (9) Notification that the Guests are responsible for compliance with all applicable laws, rules and regulations pertaining to the use and occupancy of the Short-Term Rental, and that Guests may be fined by the City for violations of this Article; and
- (b) The Operator shall operate a Short-Term Rental in compliance with the following:
- (1) City of Port Lavaca Sign Ordinance, as applicable, set forth in Chapter 36 of the Code of Ordinances.
 - (2) Maximum occupancy limits prescribed by the Building Official, pursuant to the International Fire Code as adopted in Chapter 12 Article II of the Code of Ordinances being 2021 IFC, Chap 10 Means of Egress, Texas State Property Code, Title 8, Sec 92.010.
 - (3) Parking shall comply with Chapter 48 Division 3 – Off Street Parking and Loading of the City's Code of Ordinances. No required parking shall be permitted within public right-of-way or access easements as defined by City Code or state regulations regarding parking. Yards and/or landscaping shall not be used to provide the necessary parking.
 - (4) Each Short-Term Rental owner shall provide in the Short-Term Rental working smoke/carbon monoxide detectors in accordance with adopted codes, and at least one working type A fire extinguisher. The premises shall otherwise comply with the applicable Code of Ordinance requirements, including but not limited to all building and fire codes.
 - (5) City of Port Lavaca Hotel Occupancy Tax Ordinance, set forth in Chapter 44 Article III of the Code of Ordinances.

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- (6) City of Port Lavaca Noise Ordinance, set forth in Chapter 20 Article VI of the Code of Ordinances.
- (7) City of Port Lavaca Solid Waste Ordinance set forth in Chapter 38 Article II of the Code of Ordinances. Accumulation on Property per Chapter 20 Article III.
- (8) During any period when a Short-Term Rental is occupied or intended to be occupied by Guests, the Local Contact Person shall be available for the purpose of responding to concerns or requests for assistance related to the condition, operation, or conduct of Guests of the Short-Term Rental.
- (c) Other standards. It is unlawful:
 - (1) To advertise on a Short-Term Rental Listing Service or offer a Short-Term Rental without first obtaining a Short-Term Rental Permit in accordance with this Article;
 - (2) To operate a Short-Term Rental in a manner that does not comply with all applicable City and state laws and codes;
 - (3) To operate a Short-Term Rental without paying the required hotel occupancy taxes;
 - (4) To operate a Short-Term Rental with an active alarm system that has not been registered with the Port Lavaca Police Department;
 - (5) To operate a Short-Term Rental with an active alarm system that is registered with the Port Lavaca Police Department but is not listed on the permit as a Short-Term Rental;

Sec. 12-355. - Notification of complaints.

Complaints related to the operation of a Short-Term Rental, including but not limited to complaints concerning noise, garbage, parking, and disorderly conduct by Guests, shall be reported to the City Code Enforcement office during daytime hours and The Port Lavaca Police Department after hours.

Sec. 12-356. - Compliance with other laws.

The Owner, Operator, Local Contact Person, and Guests shall comply with all applicable laws, rules and regulations pertaining to the operation, use, and occupancy of a Short-Term Rental. The Owner shall not be relieved from any civil or criminal liability for a violation of this Article, regardless of whether such violation is committed by the Owner, Operator, Local Contact Person, or Guest of the Owner's Short-Term Rental.

Nothing in this Article shall be construed to relieve any person or Owner of any other applicable requirements of federal, state, or local law, rules, or regulations. Nothing in this Article shall be construed to provide any property owner with the right or privilege to violate any private conditions, covenants, and restrictions applicable to the Owner's property that may prohibit the use of such Owner's property as a Short-Term Rental as defined in this Article.

Sec. 12-357. - Compliance and Penalty provision.

- (a) It shall be unlawful for any person or entity to violate any provision of this Article. Proof that a violation of this Article occurred at a Short-Term Rental shall create a rebuttable presumption that the Owner of said Short-Term Rental committed the violation.
- (b) Any violation of this Article is a Class C misdemeanor offense, and upon conviction, shall be punished by a fine as set forth in Section 1-8 of the Code of Ordinances.
- (c) Prosecution under this Article shall not require the pleading or proving of any culpable mental state.

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- (d) Penalties provided for in this Article are in addition to any other criminal or civil remedies that the City may pursue under federal, state, or local law.

Sec. 12-358. - Permit suspension or revocation; appeal.

Upon conviction of a violation of this Article, the Director may suspend or revoke any Short-Term Rental Permit issued for the same Short-Term Rental where the violation occurred. The Director shall notify an Owner of a suspension or revocation under this Section in writing, delivered by Certified Mail, Return Receipt Requested, and mailed to the address of the Owner as set forth on the most recent Short Term Rental Permit application submitted to the City. An Owner may appeal a notice of suspension or revocation under this Section by filing a written appeal with the Director within thirty (30) days following the date said notice was deposited in the U.S. Mail. Following a timely filing of an appeal hereunder, the Owner may present evidence to the Director related to the suspension or revocation under this Section. Following the Director's final decision on appeal, the Owner may appeal an adverse decision of the Director by filing a written appeal with the Director within thirty (30) days following the date of the Director's final decision.